

**GOVERNMENT OF TELANGANA**  
**ABSTRACT**

Tribal Welfare Department - Caste Verification - Appeal Petition filed Smt.Vemula Ramakhadar D/o Gurunadha Rao, Wyra, Khammam District before the Government against the Proceedings No. H7/1084/2000 Dated 29.01.2008 of the District Collector, Khammam for Cancellation of her ST Koya Community caste certificate under Rule 6 of G.O.Ms.No.58, dated 12.05.1997 - Appeal- Rejected - Orders - Issued.

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**TRIBAL WELFARE (LTR) DEPARTMENT**

**G.O.Ms.No.3**

**Dated 24-01-2017**  
**Read the following:**

1. Proceedings of the District Collector, Khammam, Rc.No.D3/3170/2003, dt. 02.04.2011.
2. Appeal Petition filed by Smt.Vemula Ramakhadar D/o Gurunadha Rao @ Thammaiah Occ: Teacher, R/o H.No. 9-20, Hanumanbazar, Wyra, Khammam District, dt.30.04.2011.
3. Govt. Memo No.6214/CV.2/2011, dated.12.5.2011& dated.20.05.2011.
4. Lr. from the District Collector, Khammam, Rc..D3/3170/2003, dt.21.07.2011.
5. Govt.Memo. 6214/CV.2/2011, Dated 20-05-2016
6. From the Director, TCR&TI, Hyderabad Lr.Rc.No Lr.Rc.No.117/1/TRI/TSV/VC-8/2016 dated 14.7.2016.

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**ORDER:**

In the reference 1st read above, the District Collector, Khammam has issued orders cancelling the ST 'Koya' caste certificate of Smt.Vemula Ramakhadar D/o Gurunadha Rao @ Thammaiah, Occ: Teacher, R/o: Hanuman bazar Wyra, Khammam District.

2. In the reference 2nd read above, Smt.Vemula Ramakhadar D/o Gurunadha Rao R/o Khammam filed an appeal petition before the Government against the Proceedings No. D3/3170/2003, dt. 02.04.2011 of the District Collector, Khammam for Cancellation of her ST "Koya" caste certificate.

3. In the reference 3rd read above, the appeal petition was admitted duly granting stay and called for records along with para wise remarks of the District Collector, Khammam and in the reference 4th read above, the District Collector, Khammam has submitted records and made the following observations:-

- The petitioner was given opportunities to adduce her evidence in support her claim(5) times i.e., on 18.8.07, 8.10.07, 29.10.07,12.11.07, 15.12.07 and 7.1.08. Without availing such facility before the DLSC, Khammam from 18.08.2007 to 07.1.2008, she engaged an Advocate to defend the case and moreover a final notice was also served upon her on 16.3.2008, even then the petitioner herein could not prove her caste as claimed for.
- Final notice was issued on 28.2.2008 and it was served on 3.3.08 with a direction to submit reply within (15) days. But, the reply was received on 27.3.08. According to the resolution passed in the DLSC, the cancellation orders were issued. Therefore the averments made in her are far away from the facts.
- As per Government orders contained in the Act, 16/93, the DLSC has been constituted under the Chairmanship of Joint Collector. Such committee has resolved for cancellation of the caste certificate of the individual. Accordingly, the District Collector has cancelled under the said Act which is as per LAW. After passing of the resolution by the DLSC committee Chairman and members, orders will be passed by the Collector are statutory. Therefore it is not correct as contended by the appellant.

(Contd..2)

- The grandfather of the petitioner Vemula Tataiah is not a tribe. As per the Supreme Court Judgment in Case No. Appeal(Civil) 6445 of 2000 Anjan Kumar V/s Union of India, in absence of any statutory law the caste of child will inherit from father and not from mother even in case of Inter-caste marriage. Simply by submitting petitioner's affidavit for dragging the issue is not correct and the caste certificate cancellation is just and right and it was cancelled duly observing the procedure as contemplated in the Act of 16/93. The District Collector, Khammam contended that there is no legal sanctity in the contention of the appellant.

4. In the reference 5th read above, the Commissioner of Tribal Welfare, Telangana State, Hyderabad was requested to conduct enquiry and furnish report in the matter and in the reference 6th read above, the Commissioner of Tribal Welfare has submitted report and stated that Smt.Vemula Ramakhadar D/o Gurunadha Rao, R/o Dummugudem (V&M), Khammam district has filed Appeal Petition before the Government under Section 7 (2) of the Act 16 of 1993 against the orders passed by the Collector & District Magistrate, Khammam district cancelling the caste certificate issued by MRO, Dummugudem, Khammam district. Government have admitted the appeal petition and the appellant Smt.Vemula Ramakhadar has attended the office of the Tribal Cultural Research & Training Institute, TS, Hyderabad and furnished information and produced certain documents in support of her Scheduled Tribe Claim as belonging to Koya.

5. The Commissioner of Tribal Welfare, Telangana State, Hyderabad has stated that the information furnished by appellant Smt.Vemula Ramakhadar D/o Gurunadha Rao revealed that:

- a) She is working as Secondary Grade Teacher, Government Primary School, Marsakunta, and presently residing at Wyra village, Khammam district.
- b) She claims to belonging to Koya Community and it is also known as Lingadari in Agency areas and she belongs to Mudava gattu Clan(gothram) and other clans of her community are Paredu gattu, Parmboina gattu.

6. The genealogical information has been ascertained from the Appellant and it revealed that;

- her great grandfather Vemula Guruvulu was belonging to Vaddera BC Community and married Dolu Buchamma said to be belonging to Koya community, but no evidence has been adduced. Out of their wedlock they got one son i.e., Vemula Thataiah, the grandfather of Appellant, he married three (3) women (1) Chavalan Veeramma, (2) Chavalan Venkatamma and (3) Vade Ramulamma all said to be belonging to Koya Community; no evidence has been produced. Out of wedlock with Smt.Chavalan Veeramma and Sri Vemula Thataiah they got 7 children; 5 sons and 2 daughters among whom Vemula Gurunadha Rao is Third son and that Sri Vemula Gurunada Rao is the father of Appellant and he married to Tammasetti Bujjamma daughter of Tammasetti Narasimha Rao belonging to Vaddera Community R/o Kesavapatnam, Dummugudem Mandal, Khammam district and they got 5 children and the appellant is their First daughter.
- the appellant married to Battula Anjaneyulu son of Battula Kondaiah, belongs to Vaddera community, native of Wyra village Khammam district and stated that Vemula Kiran Kumari is the sister of Appellant and married to Narsimha Rao, but the Appellant does not know the Caste of her husband and native place and district.
- Hemalatha is the sister of Appellant and married to khaddar Babu S/o Tummesetti Babu Rao belonging to Vaddera Community BC-A but native place and district not known and stated that Vemula Sri Lakshmi and Vemula Anuradha are the sisters of Appellant and they are unmarried.

(Contd..3)

- the genealogical information furnished by the Appellant revealed that her great grandfather belonged to Vaddera community and all of them were brought up in patrilineal, patriarchal and patrilocal family system.

7. Further, the Commissioner of Tribal Welfare has stated the Supreme Court in its judgment dated 14.02.2000 in Civil Appeal No.6445 of 2000 filed by Ajnan Kumar held that the offshoots of the wedlock of a tribal woman married to a non-tribal husband cannot claim Scheduled Tribe status. The reason being such offshoot was brought up in the atmosphere of and he is not subjected to any disability. A person not belonging to the Scheduled Castes or Scheduled Tribes claiming himself to be a member of such caste by procuring a bogus caste certificate is a fraud under the Constitution of India. The impact of procuring fake/bogus caste certificate and obtaining appointment/ admission from the reserved quota will have far reaching grave consequences. A meritorious reserved candidate may be deprived of reserved category for whom the post is reserved. The reserved post will go into the hands of non-deserving candidate and in such cases it would be violative of the mandate of Articles 14 and 21 of the Constitution. The Scheduled Caste and Scheduled Tribe certificate is not a bounty to be distributed. To sustain the claim one must show that he / she suffered disabilities socially, economically and educationally cumulatively. The authority concerned, before whom such claim is made, is duty bound to satisfy itself that the applicant suffered disabilities socially, economically and educationally before such certificate is issued. Any authority concerned issuing such certificate in a routine manner would be committing a dereliction of Constitutional duty. The appeal was dismissed with costs and the tribe certificate procured by the appellant be misrepresentation of the facts was quashed and set aside.

8. The appeal petition filed by the appellant is examined with reference to the material available on record, evidence produced before the Tribal Cultural Research & Training Institute, TS, Hyderabad and keeping in view the different judgments of Apex Court.

9. The District Collector, Khammam in his Procs.No.D3-3170/ 03 Dt.2.4.2011 has examined the case in detail and observed as follows:

**Tribe Means:** A tribe is an Indian group which possesses certain qualities and characteristics that make it a unique cultural, social, and political entity. The nature of what constitutes an Indian tribe and the very nature of tribes have changed considerably over the course of centuries, but certain characteristics have remained unchanged.

**Different opinions on Bogus Claims:**

- It has been laid down by a series of decisions by the Supreme Court that the burden of proving the community status of the person is on the person who claims such a status. Each social status claim has to be independently considered. In specific cases where it is brought to the notice of the authorities that a particular certificate has been obtained by wrong representation, it is always open to the authorities to cancel the certificate after giving notice and holding enquiry.
- It is seen that the question that a person belongs to a particular caste or community or religion is basically a factual determination. The burden of establishing a social status is always on the person claiming such a status. Though the parties manage to gain falsely social status as Tribe and wrongfully and unconstitutionally is in enjoyment of the benefit of employment as a tribe, it is not conclusive. It is not uncommon to corner such benefits because of connivance of officers and it is a known fact that the tribe of such officers has grown over years because the social crimes committed by them is either

ignored by the superiors of their class or because they have a protective umbrella from their higher ups. In order to establish whether a particular candidate belongs to any of the Scheduled Tribe /group divers ethnic or cultural identities were mentioned. In the light of the continuous abuse of these benefits, the Supreme Court, in Madhurai Patil's case, referred to above, directed the scrutiny of all the community certificates. The said process is undertaken by the District Level and State Level Committees. Similar view was reiterated in Director of Tribal Welfare, Govt. of A.P., vs. Laveti Giri(1995) 4 SCC 32. In the case of Punit Rai vs.Dinesh Chaudhary (2003) 8 SCC 204 this court at page 221 in para 39 observed as under:-“39. A person in fact not belonging to the Scheduled Caste, if claims himself to be a member thereof by procuring a bogus caste certificate, would be committing fraud on the Constitution. No court of law can encourage commission of such fraud.

- In Kumari Madhuri Patil and Anr.vs. Additional Commissioner, Tribal Development and Ors.(1994) 6 SCC 241, the Supreme Court observed as follows in para 5: Despite the cultural advancement, the genetic traits pass on from generation to generation and no one could escape or forget or get them over. The tribal customs are peculiar to each tribe or tribal communities and are still being maintained and preserved. Their cultural advancement to some extent may have modernized and progressed but they would not be oblivious to or ignorant of their customary and cultural past to establish their affinity to the membership of a particular tribe. The ineligible or spurious persons who falsely gained entry resort to dilatory tactics and create hurdles in completion of the inquires by the Scrutiny Committee.
- State of Maharashtra vs. Milind & Ors. 2001 (1) Mh.L.J. (SC). However, we are unable to accede to this contention and request. Again in Raju Ramshingh Vasave (supra), in para 21, their Lordship observed as follows: - “We reiterate that to fulfill the constitutional norms, a person must belong to a tribe before he can stake his claim to be a member of a notified Scheduled Tribe. When an advantage is obtained by a person in violation of the constitutional scheme, a constitutional fraud is committed.”
- In Priyanka Omprakash Panwar vs. State of Maharashtra & Ors.2008 (1) Mh.L.J.715, ... a degree, diploma or educational qualification acquired by a person after securing admission to an educational institution on the basis of a Caste Certificate which is subsequently proved to be false shall also stand cancelled, on cancellation of the Caste Certificate by the Scrutiny Committee. Having considered the said provisions, the Division Bench refused to accede to the prayer for protection of the degree or educational qualification in view of the specific legal provisions applicable in the State of Maharashtra. When the petitioner has secured admission to a Medical Course on the basis of a caste claim which is found to be false, she cannot be given protection against cancellation of such admission.
- See Dr.Vimla vs.Delhi Administration (1963 Supp.2 SCR 585) and Indian Bank vs. Satyam Febrs(India) Pvt.Ltd. (1996 (5) SCC 550 ). A “fraud “ is an act of deliberate deception with the design of securing something by taking unfair advantage of another. It is a deception in order to gain by another's loss. It is a cheating intended to get an advantage. Fraud and deception are synonymous.
- In Lazarus Estate vs. Berly [ (1956) 1 All ER 3411 ] the Court of Appeal stated the law thus: - “I cannot accede to this argument for a moment “no Court in this land will allow a person to keep an advantage which he has obtained by fraud. No Judgment of a Court, no order of a Minister, can be allowed to stand if it has been obtained by fraud, Fraud unravels everything”. The Court is careful not to find fraud unless it is distinctly pleaded and proved; but once it is proved it vitiates judgments, contracts and all transactions whatsoever”.

- In S.P.Chengalyaraya Naidu vs. Jaganatha [ (1994) 1 SCC 1 ] .... this Court stated that fraud avoids all judicial acts, ecclesiastical or temporal.” An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would, render the transaction void and initio. Fraud and deception are synonymous.
- In M.Kalimuthu vs. The Collector - Writ Petition N.945 of 1998 [ 2001 ] RD-TN 6 ( 11 December 2001 ) IN THE HIGH COURT OF JUDICATURE AT MADRAS DATE: 11.12.2001 THE HONOURABLE MR.JUSTICE P. SHANMUGAM Writ Petition No.945 of 1998 that there is “menace of fabricating the false records and to gain unconstitutional advantages by plain / spurious persons could be prevented. Lest they would defeat the Constitutional objective of rendering socio-economic justice envisaged under Article 46 in the Preamble of the Constitution under Articles 14, 15, 16, 38 and 39.” It is open to the authorities who have issued the certificate as Head of the Department of Revenue, to verify the genuineness of the certificate.

10. In the absence of any materials or records or evidence to show that the petitioner belongs to KOYA community, It is unexplained as to how the claimant has characterized herself as KOYA, WHEN GENEALOGICAL CHART AND MATRIMONIAL TIES WHICH CLEARLY ESTABLISHES THAT ALL OF THE KITH & KINS ARE OF VADDERA CASTE. Even in the letters or deposition she is unable to explain the right facts before the District Level Scrutiny Committee.

11. CASE NO Appeal (civil) 6445 of 2000 PETITIONER: Anjan Kumar RESPONDENT: Union of India & Ors. DATE OF JUDGMENT: 14/02/2006 BENCH: H.K.SEMA & Dr.A.R. LAKSHMANAN Anjan Kumar v/s Union Government: A Person not belonging to the Scheduled Castes or Scheduled Tribes claiming himself to be a member of such caste by procuring a bogus caste certificate is a fraud under the Constitution of India. The impact of procuring fake /bogus caste certificate and obtaining appointment / admission from the reserved quota will have far-reaching grave consequences. The meritorious reserved candidate may be deprived of reserved category for whom the post is reserved, the reserved post will go into the hands of non-deserving candidate and in such cases it would be violative of the mandate of Articles 14 and 21 of the Constitution of India. The Scheduled Caste and Scheduled Tribe Certificate is not a bounty to be distributed. To sustain the claim, one must show that he / she suffered disabilities - socially, economically and educationally cumulatively.

12. Permitting fraudsters to abuse community certificates and enjoy the benefits meant for SC/STs would amount to “raping the Constitution, “ the Madras High Court has said. The bench comprising Justice Eliphe Dharma Rao and Justice S.Tamilvanan was passing orders on a writ appeal preferred by T R Vijayanandan citing these pertinent facts, the Bench said: “We are able to see that neither the petitioner (Vijayanandan) nor his ancestors belong to the Konda Reddy community, and it seems that the father of the petitioner (Vijayanandan) has orchestrated the entire episode of creating false community certificates for the benefit of his children.”Vijayanandan had produced a spurious and false community certificate, the bench concluded, adding, “while for the sake of social status he wanted to maintain as a Reddy, for the sake of his individual benefit he is claiming as if he is belonging to Konda Reddy community, solely with a view to deceive the authorities and to snatch away the benefits extended to underprivileged communities by the Constitution.” The bench further said: “The petitioner (Vijayanandan) and his deceased father have attempted to play fraud on the Constitution, taking advantage of the similarity between the words Reddy and Konda Reddy. If people of this type are let out freely without being prosecuted and punished, it would amount to raping the Constitution, further shaking the confidence of people.”The judges then upheld Vijayanandan’s dismissal from service and directed the District Collector to book criminal cases against him.

13. R.Vishwanatha Pillai v. State of Kerala which is a decision rendered by a Bench of three learned Judges. The employee in the aforesaid case had got an appointment in the year 1973 against a post reserved for Scheduled Caste. On complaint, the matter was enquired into and the Scrutiny Committee vide its order dated 18-11-1995 held that he did not belong to Scheduled Caste and the challenge raised to the said order was rejected by the High Court and the special leave petition filed against the said order was also dismissed by this Court. He then filed a petition before the Administrative Tribunal praying for a direction not to terminate his services which was allowed, but the order was reversed by the High Court in a writ petition. The employee then filed an appeal in this Court. After a detailed consideration of the matter this Court dismissed the appeal and para 15 of the Report, which is relevant for the decision of the present case, is reproduced below: ( SCC p. 115) This apart, the appellant obtained the appointment in the service on the basis that he belonged to a Scheduled Caste community. When it was found by the Scrutiny Committee that he did not belong to the Scheduled Caste community, then the very basis of his appointment was taken away. His appointment was no appointment in the eye of the law. He cannot claim a right to the post as he had usurped the post meant for a reserved candidate by playing a fraud and producing a false caste certificate. Unless the appellant can lay a claim to the post on the basis of his appointment he cannot claim the constitutional guarantee given under Article 311 of the Constitution. As he had obtained the appointment on the basis of a false caste certificate he cannot be considered to be a person who holds a post within the meaning of Article 311 of the Constitution of India. Finding recorded by the Scrutiny Committee that the appellant got the appointment on the basis of a false caste certificate has become final. The position, therefore, is that the appellant has usurped the post which should have gone to a member of the Scheduled Castes. In view of the finding recorded by the Scrutiny Committee and upheld up to this Court, he has disqualified himself to hold the post. The appointment was void from its inception. In the light of the above discussion, the contentions made by the learned counsel for the petitioner that the petitioner should be dealt with leniently must be rejected.

14. Smt. Vemula Rama Khader had obtained a community describing herself as belonging to KOYA community for the purpose of getting the benefits of reservation intended for Scheduled Tribe persons and on that basis, she has also entered in service in Government of Andhra Pradesh, and working as Teacher. The person who gains an advantage on the basis of community certificate must be ever ready to establish his claim. Sri Vemula Rama Khader, has miserably failed to establish her cast status in spite of sufficient opportunity.

15. In this context, it is presumed that this was clearly a case of fraud. By “fraud” is meant an intention to deceive: whether it is from any expectation of advantage to the party himself or from the ill will towards the other is immaterial. The expression “fraud” involves two elements, deceit and injury to the person deceived, Injury is something other than economic loss, that is, deprivation of property, whether movable or immovable or of money and it will include and any harm whatever caused to any person in body, mind, reputation or such others. We may not be able to correct past mistakes. But we have to make sure that we are not going to continue the same mistakes. The persons who are member of scheduled tribes and scheduled castes alone are entitled to the benefit. On only the material paper as submitted as evidence which is available on record it is impossible for DLSC to reasonably conclude that the respondent belongs to the Koya Scheduled Tribe community and ordered the cancellation of S.T.(Koya) Caste Certificate of Vemula Rama Khadar.

16. Government after careful examination of all the facts mentioned above, have decided to uphold the orders of District Collector, Khammam in cancelling the caste certificate of the appellant and the appeal of Smt.Vemula Rama Khadar is hereby rejected.

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16. The District Collector, Khammam shall take necessary action in the matter accordingly. The original records received in the reference 4th read above are returned herewith.

**(BY ORDER AND IN THE NAME OF THE GOVERNOR OF TELANGANA)**

**SOMESH KUMAR  
PRINCIPAL SECRETARY TO GOVT (TW)**

To  
Smt.Vemula Ramakhadar D/o Gurunadha Rao @ Thammaiah,  
Occ: Teacher, R/o H.No. 9-20, Hanumanbazar, Wyra, Khammam District.

The District Collector, Khammam(with original records).

**Copy to:**

The Mandal Revenue Officer, Wyra Mandal, Khammam District.  
The Director, TCR & TI, Telangana State, Hyderabad,  
The Commissioner of Tribal Welfare, Telangana State, Hyderabad,  
Sri T.L.K.Sharma, Advocate, 1-3-183/40/68/C/2,  
2nd Play ground, Gandhinagar, Hyderabad - 500 080.  
The PS to Hon'ble Minister (TW),  
The PS to Principal Secretary (TW),  
SC/SF.

**//FORWARDED::BY ORDER//**

**SECTION OFFICER.**